

**RESOLUTION NO. 75296****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSE MAKING CERTAIN FINDINGS IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FOR ACTIONS TO SUPPORT IMPLEMENTATION OF AN AGREEMENT BETWEEN THE CITY OF SAN JOSE AND THE SANTA CLARA VALLEY WATER DISTRICT AND AUTHORIZATION TO PERFORM EARTHWORK ON A SITE AT THE SAN JOSE/SANTA CLARA WATER POLLUTION CONTROL PLANT, FOR WHICH AN INITIAL STUDY/MITIGATED NEGATIVE DECLARATION WAS PREPARED IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM**

WHEREAS, the Council intends to take actions to approve an agreement between the City of San Jose and the Santa Clara Valley Water District and authorize the performance of some earthwork on a site at the San Jose/Santa Clara Water Pollution Control Plant, hereinafter referred to as the "Project"; and

WHEREAS, the California Environmental Quality Act of 1970, as amended, (CEQA) requires that, in the approval of a project for which a Mitigated Negative Declaration has been prepared, the decision-making body shall review said mitigated negative declaration and make certain findings regarding the significant effects on the environment identified in the mitigated negative declaration; and

WHEREAS, such Project was the subject of a mitigated negative declaration entitled, "South Bay Advanced Recycled Water Treatment Facility," prepared by the Santa Clara Valley Water District (the "District") as the lead agency under CEQA and that mitigated negative declaration, together with a certain mitigation monitoring and reporting program, was adopted by the Board of Directors of the District on February 23, 2010 under District Resolution No. 10-15 (the "MND"); and

WHEREAS, the City Council of the City of San José is a decision-making body for a portion of the Project to approve an agreement between the City of San Jose ("City") and the District and to authorize the performance of certain earthwork on a site at the San Jose/Santa Clara Water Pollution Control Plant; and

WHEREAS, the City Council does hereby certify that, as a decision-making body for a portion of the Project and acting as a responsible agency under CEQA, it has

considered and approved the information contained in such MND prior to acting upon or approving such portion of the Project; and

WHEREAS, prior to the adoption of this Resolution, the Planning Director of the City of San Jose was given an opportunity to review and comment on the Initial Study and Mitigated Negative Declaration for the Project (Planning File No. OA10-003) in accordance with the requirements of CEQA, together with state and local guidelines implementing CEQA; and

WHEREAS, the Initial Study/Mitigated Negative Declaration concluded that implementation of the Project could result in a number of significant effects on the environment and identified mitigation measures that would reduce the significant effects to a less-than-significant level; and

WHEREAS, in connection with the approval of a project involving the preparation of an initial study/mitigated negative declaration that identifies one or more significant environmental effects, CEQA requires the decision-making body of the lead agency to incorporate feasible mitigation measures that would reduce those significant environment effects to a less-than-significant level; and

WHEREAS, whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA also requires a lead agency to adopt a Mitigation Monitoring and Reporting Program to ensure compliance with the mitigation measures during project implementation; and

WHEREAS, the City of San Jose has reviewed the MND prepared by the District as the lead agency for the Project under CEQA, and concurs in the analysis and conclusions set forth in said MND; and

WHEREAS, the City Council is a decision-making body for a portion of the proposed Project as described in this Resolution; and

WHEREAS, the City Council intends to take actions on the Project in compliance with CEQA, together with state and local guidelines implementing CEQA; and

WHEREAS, the MND for the Project is, by this reference, incorporated into this Resolution as if fully set forth herein;

**NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSE AS FOLLOWS:**

THAT THE CITY COUNCIL does hereby make the following findings: (1) it has independently reviewed and analyzed the MND and other information in the record and has considered the information contained therein, prior to acting upon or approving the portion of the Project before the City Council for consideration, (2) the MND prepared for the Project has been completed in compliance with CEQA and in a manner that is consistent with state and local guidelines implementing CEQA, and (3) the MND represents the independent judgment and analysis of the City as a responsible agency for a portion of the Project. The City Council designates the Director of Planning, Building and Code Enforcement at the Director's Office at 200 East Santa Clara Street, Tower, 3<sup>rd</sup> floor, San Jose, California 95113, as the custodian of documents and records of proceedings on which this decision is based.

THAT THE CITY COUNCIL does hereby approve an agreement between the City and the District and authorize the performance of certain earthwork described in that agreement on a site at the San Jose/Santa Clara Water Pollution Control Plant and does hereby adopt the MND, including the Mitigation Monitoring and Reporting Program, prepared for the Project. The MND is: (1) on file in the Office of the Director of Planning, located at 200 East Santa Clara Street, Tower, 3<sup>rd</sup> Floor, San Jose CA 95113 and (2) available for inspection by any interested person.

**ADOPTED** this 2<sup>nd</sup> day of March, 2010, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA,  
KALRA, LICCARDO, OLIVERIO, PYLE, REED.


NOES: NONE.

ABSENT: NGUYEN.

DISQUALIFIED: NONE.

ATTEST:

  
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LEE PRICE, MMC  
City Clerk

  
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CHUCK REED  
Mayor